AMENDED IN SENATE JULY 10, 2001

AMENDED IN SENATE JUNE 26, 2001

AMENDED IN ASSEMBLY APRIL 17, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL No. 1510

Introduced by Assembly Member Ashburn

February 23, 2001

~~An act to amend Section 25216.3 of the Health and Safety Code,~~ *An act to add Section 25216.4 to the Health and Safety Code*, relating to hazardous waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1510, as amended, Ashburn. Dry cell batteries.

Existing law excludes from regulation as a hazardous waste and from the requirements concerning spent batteries, a spent dry cell battery containing zinc electrodes, if the spent dry cell battery is disposed of in a specified manner, or is accumulated for recycling, subject to specified requirements. Existing law defines the term ''spent dry cell battery containing zinc electrodes'' as a battery that, among other things, does not contain any constituent, other than zinc or zinc oxide, that would cause it to be classified as a hazardous waste pursuant to the hazardous waste control laws.

~~This bill would additionally include copper or specified electrolytes as among the constituents that such an excluded battery may contain. The bill would prohibit the department from adopting regulations that require a spent dry cell battery containing zinc electrodes to be subject to the hazardous waste requirements until the department adopts~~

~~specified regulatory thresholds applicable to those batteries and establishes tests to determine whether those thresholds have been met. The bill would additionally require a spent dry cell battery, as a condition of not being classified as a hazardous waste, to meet those tests.~~

~~The bill would exempt spent dry cell batteries containing zinc electrodes from a specified corrosivity test provided by existing regulation.~~

The bill would require the ~~department, in conjunction with the California Integrated Waste Management Board,~~ *Environmental Policy Council* to *perform a study and* submit a report to the Legislature by July 31, ~~2002~~ *2003*, ~~that determines~~ *regarding available recycling opportunities and reclamation practices and the environmental effect of randomly disposing of spent dry cell batteries containing zinc electrodes in a solid waste landfill. The report, among other things, would evaluate* whether large-scale recycling of spent dry cell batteries containing zinc electrodes is technologically and economically feasible, including the recycling of spent dry cell batteries containing zinc electrodes generated by large institutional generators~~, and recommendations on ways to ensure that the public is adequately educated on how to distinguish between the different types of batteries that may, or may not, be disposed in a solid waste landfill~~.

The bill would appropriate $125,000 from the General Fund to the ~~department~~ *council* to prepare this report.

Vote: $^{2}/_{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 25216.3 of the Health and Safety Code is amended to read:~~

~~25216.3. (a) For purposes of this section, "spent dry cell battery containing zinc electrodes" means an alkaline or zinc-carbon battery, that meets all of the following conditions:~~

~~(1) It is an enclosed device or sealed container consisting of one or more voltaic or galvanic cells, electrically connected to produce electric energy, of any shape, including, but not limited to, button, coin, cylindrical, or rectangular, and designed for commercial, industrial, medical, institutional, or household use.~~

~~(2) It contains an electrode comprised of zinc or zinc oxide or a combination thereof, and a liquid starved or gelled electrolyte.~~

~~(3) It does not contain any constituent, other than zinc, zinc oxide, copper, or an aqueous alkaline electrolyte consisting of potassium hydroxide or sodium hydroxide that would cause it to be classified as a hazardous waste pursuant to this chapter.~~

~~(4) It is discarded by the user.~~

~~(b) Notwithstanding any other provision of law, a spent dry cell battery containing zinc electrodes is not a hazardous waste, and is not subject to the requirements of this chapter, if all of the following conditions are met:~~

~~(1) The spent dry cell battery containing zinc electrodes is disposed of in a permitted municipal solid waste landfill unit, as defined in Section 20164 of Title 27 of the California Code of Regulations, or in a permitted municipal solid waste transformation facility, as defined in Section 40201 of the Public Resources Code, or is accumulated for recycling.~~

~~(2) The spent dry cell battery containing zinc electrodes is not stored or accumulated for longer than 180 days. In addition, at least 75 percent, by weight or volume, of all spent dry cell batteries containing zinc electrodes stored or accumulated at a site during a calendar year shall be transferred to a different site for disposal or recycling during that calendar year.~~

~~(3) The spent dry cell battery containing zinc electrodes is stored, accumulated, and transferred in a manner that minimizes the possibility of fire, explosion, or any release of hazardous substances or hazardous waste constituents.~~

~~(4) The spent dry cell battery containing zinc electrodes passes the test required by the regulations adopted by the department in accordance with paragraph (1) of subdivision (c), if the department adopts those regulations.~~

~~(c) (1) The department shall not adopt regulations specifying that spent dry cell batteries containing zinc electrodes are subject to the requirements applicable to hazardous wastes set forth in this chapter and the regulations adopted pursuant to this chapter, until the department adopts regulatory thresholds applicable to spent dry cell batteries containing zinc electrodes and establishes tests to be performed on whole batteries to determine if those regulatory thresholds have been met. The tests shall be reasonably calculated to determine if the spent dry cell batteries containing zinc~~

~~electrodes exhibit the hazardous characteristics identified by the department pursuant to paragraph (1) or (2) of subdivision (b) of Section 25141 when those batteries are handled in the manner prescribed by subdivision (b).~~

~~(2) Spent dry cell batteries containing zinc electrodes shall not be subject to the test specified in the existing regulations adopted by the department with regard to a waste exhibiting the characteristic of corrosivity, if representative samples of the waste are not aqueous and produce a solution with a pH less than or equal to 2 or greater than or equal to 12.5, as specified in paragraph (3) of subdivision (a) of Section 66261.22 of Title 22 of the California Code of Regulations, as that section read on July 1, 2001.~~

~~SEC. 2. (a) On or before July 31, 2002, the Department of Toxic Substances Control, in conjunction with the California Integrated Waste Management Board, shall submit a report to the Legislature that determines whether large-scale recycling of spent dry cell batteries containing zinc electrodes is technologically and economically feasible and shall consider, in making that determination, if any requirement applicable to hazardous wastes should be applied to spent dry cell batteries containing zinc electrodes and whether the application of these requirements would impede or encourage the recycling of those batteries. In preparing this report, the department and the board shall also consider the recycling of spent dry cell batteries containing zinc electrodes generated by large institutional generators, including, but not limited to, governmental entities. The department and the board shall also include in that report~~

SECTION 1. The Legislature finds and declares all of the following:

(a) The Department of Toxic Substances Control has proposed permanent regulations for the Universal Waste Rule, R-97-08 (December 19, 2000), which propose, in pertinent part, to require the recycling of alkaline batteries as a non-RCRA hazardous waste.

(b) These regulations provide a four-year exemption for three million household generators and one million small quantity generators after which alkaline batteries would be required to be recycled at a cost estimated by the department to be between thirty-eight dollars ($38) and forty-five dollars ($45) per generator, for a total cost between one hundred fifty-two million

dollars ($152,000,000) to one hundred eighty million dollars ($180,000,000) annually.

(c) Furthermore, as stated in the informative digest of the department's proposed Universal Waste Rule regulations, "No battery recyclers currently operate in California. Most batteries will be sent out of state for recycling."

(d) Therefore, before the state embarks on an extensive and costly recycling program for alkaline batteries, it is necessary to undertake a study to obtain information regarding the availability of recycling opportunities for Californians and the extent of environmental impact, if any, caused by the deterioration of alkaline batteries in a solid waste landfill.

SEC. 2. Section 25216.4 is added to the Health and Safety Code, to read:

25216.4. (a) On or before July 31, 2003, the Environmental Policy Council, established pursuant to Section 71017 of the Public Resources Code, shall undertake a study and submit a report to the Legislature regarding available recycling opportunities and reclamation practices and the environmental impact of randomly disposing of spent dry cell batteries containing zinc electrodes, as defined in Section 25216.3, in a solid waste landfill.

(1) With regard to the availability of recycling opportunities and reclamation practices, the study shall include, but not be limited to, all of the following:

(A) An evaluation of whether large-scale recycling of spent dry cell batteries containing zinc electrodes is technologically and economically feasible, taking into consideration if any requirement applicable to hazardous wastes should be applied to spent dry cell batteries containing zinc electrodes and whether the application of these requirements would impede or encourage the recycling of those batteries.

(B) A determination of the types of recycling or reclamation facilities for spent dry cell batteries containing zinc electrodes are in operation in California and other states.

(C) A determination of what end products, if any, result from the recycling or reclamation activities.

(D) A calculation of the amount of spent dry cell batteries containing zinc electrodes generated by large institutional generators, including, but not limited to, governmental entities.

(E) A determination of the types of recycling facilities, transfer facilities, collection systems, and other forms of infrastructure should be available to recycle spent dry cell batteries containing zinc electrodes that are generated by households and small quantity generators.

(F) A recommendation of measures necessary to encourage the development of battery recycling programs in the state, if the study determines that a recycling program is needed.

(2) With regard to the environmental impact of the random disposal of spent dry cell batteries containing zinc electrodes in a solid waste landfill, the study shall include, but not be limited to, all of the following:

(A) A determination of the conditions under which spent dry cell batteries containing zinc electrodes deteriorate in a solid waste landfill and the extent to which, if any, the contents leach into the landfill.

(B) An evaluation of whether California solid waste landfills are acidic or alkaline in composition and the impact that the alkaline content of spent dry cell batteries containing zinc electrodes may have on the migration of heavy metals into landfills.

(C) An evaluation of the degree to which the leaching of copper or alkaline components of spent dry cell batteries presents a significant or actual threat to the environment when batteries are randomly disposed in a solid waste landfill.

(b) The council shall also include in a report recommendations on ways to ensure that the public is adequately educated on how to distinguish between the different types of batteries that may, or may not, be disposed in a solid waste landfill.

~~(b)~~

(c) In preparing the report required by subdivision (a), the ~~Department of Toxic Substances Control~~ *council* shall consult with representatives of the battery industry.

~~(c)~~

SEC. 3. The sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the General Fund to the ~~Department of Toxic Substances Control~~ *Environmental Policy*

Council to prepare the report required by ~~this section~~ *Section 25216.4*.

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